

Amendment After Final dated February 3, 2009

Reply to Final Office Action of October 3, 2008

REMARKS

This paper is responsive to the Office Action dated October 3, 2008. Claims 1-20 were pending before submission of this paper. Claims 1-20 stand rejected. Claims 2, 3, 10, and 12 have been amended. Reconsideration of the claims in view of the following remarks is respectfully requested.

I. **CLAIM REJECTIONS UNDER 35 USC § 103**

Claims 1-20 are rejected under 35 U.S.C. 103 as being unpatentable over Covisint (a collection of articles Covisint 1-3) in view of Oracle (a collection of articles Oracle 1-7, in view of Kaplan (US 5,701,460) and further in view of Official Notice. Applicants respectfully traverse this rejection.

A. **Claims 1-9, 20**

A proper rejection under Section 103 requires evidence that “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious *at the time the invention was made* to a person having ordinary skill in the art to which said subject matter pertains.” 35 U.S.C. § 103(a); M.P.E.P. § 2141. Accordingly, “in order to render a claimed apparatus or method obvious, the prior art must enable one skilled in the art to make and use the apparatus or method.” *Beckman Instruments, Inc. v. LKB Produkter AB*, 13 U.S.P.Q.2d 1301, 1304 (Fed. Cir. 1989); see also M.P.E.P. § 2145 (“A conclusion of obviousness requires that the reference(s) relied upon be enabling in that it put the public in possession of the claimed invention.”). “An invention is not ‘possessed’ absent some known or obvious way to make it.” *In re Payne, Durden, and Weiden*, 203, U.S.P.Q. 245, 255 (C.C.P.A. 1979). Stated another way, “[i]f neither any item of prior art, nor the background knowledge of one with ordinary skill in the art, would enable one to arrive at an invention, that invention would not be obvious.” *Minnesota Mining and Manufacturing Company v. Blume et al.*, 215 U.S.P.Q. 585, 591 n. 10 (6th Cir. 1982).

Applicants respectfully submit that the cited references do not put the public in possession of applicants invention as defined in the claims because the Covisint and Oracle articles do not enable the individual teachings for which they are cited and, even assuming the individual teachings were enabled, because the references do not enable a combination of the teachings for which the references are cited. The Oracle articles, for example, are a collection of business-oriented news articles that generally describe marketing features of Oracle products, such as Oracle's AutoExchange and Applications Release 11i. The articles however lack technical details or specific descriptions of how the products accomplish providing the features described in the articles.

For a specific example in connection with claim 1, the Office Action at page 3 cites to Oracle2 for "each exchange having a respective view having respective unique components." Because Oracle2 is not directed to exchanges, the Office Action on page 3 cites Covisint for a teaching regarding multiple exchanges and asserts that it would be obvious to combine the teachings of Oracle2 and Covisint to achieve "each exchange having a respective view having respective unique components."

Oracle2 is an article published by PR Newswire describing Oracle's announcement that it is releasing Oracle Applications Release 11i. While it is unclear to which portion of the article the Office Action is referring, it appears to refer to the section on the second page entitled "New Look and Feel." This section, however, only vaguely describes that "A new CRM Customer Information portal gives a single customizable homepage to view their account information including service requests, invoices, order history and support." There is, however, no teaching or description in this section, or anywhere else in the Oracle articles, about how the feature identified in the article is enabled. Moreover, even assuming hypothetically that Covisint includes enabled teachings of a plurality of exchanges as recited in claim 1 (as noted below, Applicant submits that it does not), neither Oracle nor Covisint provides a description, teaching, or other detail that would enable combination of a plurality of exchanges from Covisint with "a single customizable homepage" from Oracle2 such that "each exchange [has] a respective view having respective unique components."

For another example in connection with claim 1, the Office Action at page 3 cites to Covisint3 for “a common instance for implementing the exchanges.” Again, it is not clear to which portion of Covisint3 the Office Action is referring to, but it appears to be the sixth full paragraph on the second page which primarily consists of a quotation from a partner at Anderson Consulting saying that:

Just because you are transacting through a common technology platform doesn’t mean you have access to each other’s information. Security has reached the point that two competitors transacting through the same exchange do not need to know what the other’s doing. This is less about sharing information between competitors and more about sharing a common technology platform.

As with Oracle2, Covisint3 does not provide any teachings that would enable one with ordinary skill at the time the invention was made to make “a common instance for implementing the exchanges,” as recited in claim 1. The Covisint3 article simply identifies a marketing feature of the Covisint product without any enabling details or description for how this feature is implemented or enabled. Moreover, none of the other Covisint articles make up for the deficiency of Covisint3. Thus, Applicants submit that the cited references do not enable the teaching of “a common instance for implementing the exchanges,” as recited in claim 1.

As yet another example in connection with claim 1, the Office Action at page 4 cites Oracle2, page 2 for the element of “wherein each of the exchanges is singularly associated with and implemented within a respective one of the plurality of sub-schemas providing a respective partial view of the common instance.”¹ The Office Action on the same page asserts that this element is taught because the reference teaches that each customer has its own web site. Again, it is unclear specifically to which portion of Oracle2 the Office Action refers, but it appears that it is referring to the same paragraph discussed above. For reasons similar to those discussed above, this paragraph (or the remainder of the reference) does not provide an enabling disclosure of how one with ordinary skill in the art at the time of the invention would implement

¹ The Office Action asserts that this element, in its form prior to Applicants’ amendment filed July 8, 2008, is taught by Oracle2. However, because the Office Action on page 8 discusses the element in its current form, for the purpose of this response, Applicants assume that the Office Action intended to assert that this element, as amended by Applicants on July 8, 2008, is taught by Oracle2.

or enable the Customer Information Portal because the article only recites broad features of the portal.

Further, even assuming for the sake of argument that Oracle2 provides an enabled teaching of each customer having its own website (Applicants submit it does not), the article does not teach or enable “wherein each of the exchanges is singularly associated with and implemented within a respective one of the plurality of sub-schemas” as recited by claim 1. The Office Action on page 4 asserts claim 1 is simply combination of prior art elements performing their usual function and that Kaplan makes up for the failure of the Oracle and Covisint references to teach implementation of each exchange within a sub-schema because Kaplan teaches that sub-schemas can be used in relational databases.

Applicants respectfully disagree that a combination of elements in a manner recited by claim 1 is enabled. Specifically, the cited portion of Kaplan, namely column 2, lines 1-20, are part of a general description of relational databases that provides a definition of what a sub-schema is. Neither Kaplan nor Oracle2, however, provide an enabled teaching that each of a plurality of exchanges is implemented within a respective sub-schema, as recited in claim 1. There are simply no teachings or descriptions in either Oracle2 or Kaplan of how to implement an exchange within a sub-schema and there is no evidence provided by the Office Action that one with ordinary skill in the art at the time of the invention would have understood how to implement an exchange within a sub-schema in the manner recited by claim 1.. Therefore, Applicants submit that Oracle2 and Kaplan, either alone or in combination, do not provide an enabling disclosure of the element of claim 1 reciting “wherein each of the exchanges is implemented within a respective one of the sub-schemas providing a respective partial view of the common instance.” The remaining Oracle and Covisint articles fail to make up for the non-enabled description of Oracle2 because they also only provide very general descriptions of various features of various products.

Therefore, Applicants respectfully submit that for at least the above reasons, claim 1 and claims 2-9 which depend from claim 1 define patentable subject matter.

Claim 20 includes several elements similar or identical to those discussed above in connection with claim 1, such as “each exchange having a respective view having respective

unique components,” “a common database for implementing the exchanges within a common schema”, and “wherein each of the exchanges is singularly associated with and implemented within a respective one of the plurality of sub-schemas providing a respective partial view of the common schema.” Consequently, Applicants respectfully submit that claim 20 is allowable at least for reasons similar to those discussed above in connection with claim 1.

B. Claim 2

As indicated above, Applicants submit that claim 2 is patentable over cited references **Oracle, Covisint, and Kaplan** for at least a similar rationale as discussed above for claim 1.

Additionally, the Office Action on page 8 states that no little patentable weight is given to the element of “for facilitating communication between the exchanges” of claim 2 because this element is not positively recited. Applicants have amended claim 2 per the suggestion in the Office Action at page 8 and 9 to more positively recite the language following “for.” In particular, Applicants have amended claim 2 to recite that “the common instance facilitates communication between the exchanges.” Applicants respectfully submit that this element is not taught, disclosed, or made obvious by the cited references, especially when considered in the context of the remaining limitations of claims 1 and 2.

The Office Action on page 5 asserts that Applicants admit that facilitating communication between exchanges is old and well-known in the art. For this admission, the Office Action cites to paragraph [0008] of the published version of the present application. Applicants submit that the Office Action misinterprets paragraph [0008]. Even assuming hypothetically for the sake of argument that this paragraph admits that facilitating communication between exchanges is old and well-known, Applicants respectfully point out that claim 2 additionally recites that the exchanges are implemented within a common instance. Applicants submit that paragraph [0008] does not admit that facilitating communication between exchanges *implemented within a common instance* is old and well-known. On the contrary, paragraph [0008] recites that “The separate instances per e-commerce site 101-104 leads to an

additional problem regarding communication between the sites.” Further, “The separate exchanges each running within their own instance cannot easily communicate amongst each other” and “communication between multiple exchanges when each exchange is running as its own instance is not easily implemented.” The remainder of the paragraph explains a known way (XML) for overcoming the aforementioned difficulties in connection with exchanges implemented in separate instances. In other words, paragraph [0008] is unrelated to facilitating communication between exchanges implemented *within a common instance*, but entirely dedicated to facilitating communication between exchanges implemented *within separate instances*.

The remaining rationale given in the rejection of claim 2 relies on citation to Covisint3 and, therefore, are insufficient for reasons similar to those discussed above.

In light of the above, Applicants respectfully submit that claim 2 is allowable at least for these additional reasons.

C. Claim 3

As indicated above, Applicants submit that claim 3 is patentable over cited references Oracle, Covisint, and Kaplan for at least a similar rationale as discussed above for claim 1.

Additionally, the Office Action on page 9 states that no little patentable weight is given to the element of “allowing the operator to perform input/output using the common components to perform the input/output for each of the multiple exchanges” of claim 3 because this element is not positively recited. Applicants have amended claim 3 per the suggestion in the Office Action at page 9 to more positively recite the language of the claim. In particular, Applicants have amended claim 3 to recite that “the multiple exchange instance allows each operator to perform input/output using the common components to perform the input/output for each of the respective multiple exchanges.” Applicants respectfully submit that this element is not taught, disclosed, or made obvious by the cited references, especially when considered in the context of the remaining limitations of claims 1 and 3.

The Office Action at page 5 asserts that “wherein the multiple exchanges each have a respective operator, allowing the operator to perform input/output using the common components to perform the input/output for each of the multiple exchanges” is taught by Covisint3, an article that describes that each automaker makes their own orders using the Covisint exchange. Applicants respectfully submit that Covisint3 does not enable this teaching because the article only generally identifies this marketing feature, but does not provide one with skill in the art any instruction or other indication how to implement the feature. On the contrary, the article simply identifies that the Covisint exchange allows automakers to make their own order using the exchange. Such a vague and general description does not put one with ordinary skill in the art in possession of this element and does not put one with ordinary skill in the art in possession of an invention comprising this element and the other elements included in claim 3. Therefore, Applicants respectfully submit that claim 3 is allowable at least for these additional reasons.

D. Claims 10-19

With regard to rejections under 35 U.S.C. § 103, the Examiner must provide evidence which as a whole shows that the legal determination sought to be proved (*i.e.*, the reference teachings establish a *prima facie* case of obviousness) is more probable than not.” MPEP §2142. Accordingly, “the key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious.” MPEP § 2142; see *KSR International Co. v. Teleflex, Inc.*, 550 U.S.398, 82 USPQ 2d 1385, 1395-97 (2007). When there is no articulation of the reasons why a claimed invention is obvious, a *prima facie* case of obviousness has not been made and there is an inference that impermissible hindsight was used to reject the claims. *In re Kahn*, 78 USPQ2d 1329, 1333 (Fed. Cir. 2006); *see also* M.P.E.P. § 2142.

Specifically applied to rejections of claims based on a combination of prior art elements according to known methods to yield predictable results—which is the case here, as articulated on page 4 of the Office Action—the Office Action must articulate four factual

findings. M.P.E.P. § 2143(A). First, there must be “a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference.” *Id.* Second, there must be “a finding that one of ordinary skill in the art could have combined the elements as claimed by known methods, and that in combination, each element merely performs the same function as it does separately.” *Id.* Third, there must be “a finding that one of ordinary skill in the art would have recognized that the results of the combination were predictable.” *Id.* Fourth, there must be articulation of “whatever additional findings based on the Graham factual inquiries may be necessary, in view of the facts of the case under consideration, to explain a conclusion of obviousness.” *Id.*

In the present application, the Office Action does not articulate any reasons to support its assertion that claims 10-20 are obvious other than to say that “Claims 10-20 are considered parallel claims to claims 1-9 and are rejected for the same rational [sic].” Applicants respectfully point out that claims 10-19 (claim 20 is addressed above) contain elements not present in claims 1-9 and, because there is no articulation as required by M.P.E.P. § 2143(A), a *prima facie* case of obviousness has not been made with respect to claims 10-20.

For example, claim 10 specifically recites “implementing a common support architecture for the exchanges” and “implementing efficient communication between the exchanges using the common support architecture.” The Office Action does not address these elements and, therefore, does not include the requisite findings that these elements are found in the prior art, that one with ordinary skill in the art could have combined these elements with the other claimed elements by known methods, and that, in combination, each element merely performs the same function as it does separately. Applicants respectfully submit that these elements are not disclosed or taught in the Oracle or Covisint articles, or any other cited art, in a manner that would render claim 10 anticipated or obvious.

Therefore, Applicants respectfully submit that claim 10 is allowable and that claims 11-19 are allowable at least for being dependant on an allowable independent claim.

E. Amendments to Claims 2, 10, and 12

Applicants have amended claims 2, 10, and 12 to address grammatical issues arising therein. Specifically, Applicants have amended the phrase "communication between the exchanges" in claims 2 and 10 to recite "communication between a first exchange of the exchanges and a second exchange of the exchanges" so that the claim includes proper grammar (avoiding use of "between" in connection with embodiments having more than two items) when considered in connection with embodiments having communication among three or more exchanges. Claim 12 has been amended to be consistent with the amended language of claim 10, from which claim 12 depends.

Applicants submit that these amendments merely address grammatical issues and, therefore, do not introduce new matter.

II. AMENDMENTS TO THE CLAIMS

Unless otherwise specified, amendments to the claims are made for purposes of clarity, and are not intended to alter the scope of the claims or limit any equivalents thereof. The amendments are supported by the Specification as filed and do not add new matter.

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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 206-467-9600.

Respectfully submitted,

/Scott S. Adams/

Scott S. Adams
Reg. No. 63,302

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 206-467-9600
Fax: 415-576-0300
SSA:kbh
61704171 v1